
SENATE BILL No. 8

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-21; IC 9-30-3; IC 34-6-2-85; IC 34-28-5-1; IC 36-1-6-3; IC 9-13-2-117.

Synopsis: Automated traffic law enforcement systems. Relocates the definition of "traffic control device" for purposes of the motor vehicle code. Defines "automated traffic law enforcement system" as a device that has one or more motor vehicle sensors working in conjunction with a traffic control signal with steady red indication or illuminated flashing red light and that produces a photographically recorded image of a motor vehicle proceeding through an intersection. Defines "traffic control signal" and "moving traffic violation". Allows a local authority to adopt and enforce an ordinance under which the owner of a motor vehicle commits a violation when an automated traffic law enforcement system produces a recorded image of the motor vehicle proceeding through the intersection contrary to the requirement to stop at a red light. Establishes certain defenses that may be raised in a proceeding to enforce an ordinance concerning automated traffic law enforcement systems. Provides that an ordinance concerning the use of an automated traffic control system may not impose a civil penalty exceeding \$100, and that the ordinance may be enforced through a local ordinance violation bureau or through infraction and ordinance violation enforcement proceedings. Authorizes an ordinance to provide for the mailing of warning notices in lieu of imposing a civil penalty. Makes conforming changes.

Effective: July 1, 2002.

Adams K, Antich, Wyss, Meeks C

November 20, 2001, read first time and referred to Committee on Transportation and Interstate Cooperation.



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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 8

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-5.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2002]: **Sec. 5.5. "Automated traffic law enforcement system", for**
- 4 **purposes of IC 9-21, has the meaning set forth in IC 9-21-3.5-2.**
- 5 SECTION 2. IC 9-13-2-110 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 110. "Moving traffic
- 7 ~~offense~~", **violation**", for purposes of IC 9-25-9-1 ~~IC 9-30-2-9~~, and
- 8 IC 9-30-3-14, has the meaning set forth in IC ~~9-30-3-14(a)~~.
- 9 **9-30-3-14(b).**
- 10 SECTION 3. IC 9-13-2-182.3 IS ADDED TO THE INDIANA
- 11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 12 [EFFECTIVE JULY 1, 2002]: **Sec. 182.3. "Traffic control device",**
- 13 **for purposes of IC 9-21, has the meaning set forth in IC 9-21-1-0.3.**
- 14 SECTION 4. IC 9-13-2-182.5 IS ADDED TO THE INDIANA
- 15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 16 [EFFECTIVE JULY 1, 2002]: **Sec. 182.5. "Traffic control signal",**
- 17 **for purposes of IC 9-21, has the meaning set forth in IC 9-21-1-0.5.**



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SECTION 5. IC 9-21-1-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 0.3. As used in this article, "traffic control device" means a sign, signal, marking, or device, including a railroad advance warning sign, not inconsistent with this title, placed or erected by authority of a public body or an official having jurisdiction for purposes of regulating, warning, or guiding traffic.**

SECTION 6. IC 9-21-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 0.5. As used in this article, "traffic control signal" means an electrical power operated traffic control device other than a:**

- (1) barricade warning light;**
- (2) mobile flashing arrow; or**
- (3) steady burning electric lamp;**

by which traffic is warned or directed to take some specific action.

SECTION 7. IC 9-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3. (a) A local authority, with respect to streets and highways under the authority's jurisdiction and within the reasonable exercise of the police power, may do the following:**

- (1) Regulate the standing or parking of vehicles.**
- (2) Regulate traffic by means of police officers or traffic control signals, including enforcement by use of automated traffic law enforcement systems.**
- (3) Regulate or prohibit processions or assemblages on the highways.**
- (4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one (1) specific direction.**
- (5) Regulate the speed of vehicles in public parks.**
- (6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.**
- (7) Designate an intersection as a stop intersection and require all vehicles to stop at one (1) or more entrances to the intersection.**
- (8) Restrict the use of highways as authorized in IC 9-21-4-7.**
- (9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.**
- (10) Regulate or prohibit the turning of vehicles at intersections.**
- (11) Alter the prima facie speed limits authorized under IC 9-21-5.**
- (12) Adopt other traffic regulations specifically authorized by this**



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article.

(13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.

(b) An ordinance or regulation adopted under subsection (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), or (a)(13) is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

SECTION 8. IC 9-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) This section applies to the person who drives an authorized emergency vehicle when:

- (1) responding to an emergency call;
- (2) in the pursuit of an actual or suspected violator of the law; or
- (3) responding to, but not upon returning from, a fire alarm.

(b) The person who drives an authorized emergency vehicle may do the following:

- (1) Park or stand, notwithstanding other provisions of this article.
- (2) Proceed past a red ~~or stop~~ **traffic control** signal or ~~stop sign,~~ **traffic control device**, but only after slowing down as necessary for safe operation.
- (3) Exceed the maximum speed limits if the person who drives the vehicle does not endanger life or property.
- (4) Disregard regulations governing direction of movement or turning in specified directions.

(c) This section applies to an authorized emergency vehicle only when the vehicle is using audible or visual signals as required by law. An authorized emergency vehicle operated as a police vehicle is not required to be equipped with or display red and blue lights visible from in front of the vehicle.

(d) This section does not do the following:

- (1) Relieve the person who drives an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons.
- (2) Protect the person who drives an authorized emergency vehicle from the consequences of the person's reckless disregard for the safety of others.

SECTION 9. IC 9-21-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) Each traffic **control** signal installation on a street or highway within Indiana may be erected only after the completion of traffic engineering studies that verify that the traffic ~~signal~~ **control signal** is necessary as set forth in the Indiana

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Manual on Uniform Traffic Control Devices for Streets and Highways.

(b) If:

(1) the proposed installation is in the immediate vicinity of a school; and

(2) the installation does not meet the requirements of this section; the governmental unit responsible for the control of traffic at the location shall grant a special hearing on the question to a person who has properly petitioned for the installation of a traffic **control** signal.

SECTION 10. IC 9-21-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. Each traffic **control** signal upon a street or highway in Indiana that does not conform to this chapter shall be removed by the governmental agency having jurisdiction over the highway.

SECTION 11. IC 9-21-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. The Indiana department of transportation is responsible for the control of all traffic **control** signals on the state highway system.

SECTION 12. IC 9-21-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. A traffic **control** signal installation on a state route is the property of the Indiana department of transportation.

SECTION 13. IC 9-21-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) Except as provided in subsection (b), a public or private agency may not erect a traffic control device on a state maintained highway without the written permission of the Indiana department of transportation.

(b) This subsection applies to the installation of traffic **control** signals on a state highway in a city or town. The Indiana department of transportation shall:

(1) install any **traffic control** signal that meets the standards, specifications, and warrants set forth in the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways; or

(2) grant written permission to a city or town to erect the **traffic control** signal if it is not possible for the state immediately to install the **traffic control** signal.

SECTION 14. IC 9-21-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored lighted arrows successively, one (1) at a time or in combination, only the colors green, red, or yellow may be used, except for special pedestrian signals under IC 9-21-18.

(b) The lights indicate and apply to drivers of vehicles and

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1 pedestrians as follows:

2 (1) Green indication means the following:

3 (A) Vehicular traffic facing a circular green signal may
4 proceed straight through or turn right or left, unless a sign at
5 the place prohibits either turn.

6 (B) Vehicular traffic, including vehicles turning right or left,
7 shall yield the right-of-way to other vehicles and to pedestrians
8 lawfully within the intersection or an adjacent sidewalk at the
9 time the signal is exhibited.

10 (C) Vehicular traffic facing a green arrow signal, shown alone
11 or in combination with another indication, may cautiously
12 enter the intersection only to make the movement indicated by
13 the green arrow or other movement permitted by other
14 indications shown at the same time.

15 (D) Vehicular traffic shall yield the right-of-way to pedestrians
16 lawfully within an adjacent crosswalk and to other traffic
17 lawfully using the intersection.

18 (E) Unless otherwise directed by a pedestrian control signal,
19 pedestrians facing a green signal, except when the sole green
20 signal is a turn arrow, may proceed across the roadway within
21 a marked or unmarked crosswalk.

22 (2) Steady yellow indication means the following:

23 (A) Vehicular traffic facing a steady circular yellow or yellow
24 arrow signal is warned that the related green movement is
25 being terminated and that a red indication will be exhibited
26 immediately thereafter.

27 (B) A pedestrian facing a steady circular yellow or yellow
28 arrow signal, unless otherwise directed by a pedestrian control
29 signal, is advised that there is insufficient time to cross the
30 roadway before a red indication is shown, and a pedestrian
31 may not start to cross the roadway at that time.

32 (3) Steady red indication means the following:

33 (A) Except as provided in clause (B), vehicular traffic facing
34 a steady circular red signal alone shall stop at a clearly marked
35 stop line. However, if there is no clearly marked stop line,
36 vehicular traffic shall stop before entering the crosswalk on the
37 near side of the intersection. If there is no crosswalk, vehicular
38 traffic shall stop before entering the intersection and shall
39 remain standing until an indication to proceed is shown.

40 (B) Except when a sign is in place prohibiting a turn described
41 in this subdivision, vehicular traffic facing a steady red signal,
42 after coming to a complete stop, may cautiously enter the

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intersection to do the following:

(i) Make a right turn.

(ii) Make a left turn if turning from the left lane of a one-way street into another one-way street with the flow of traffic.

Vehicular traffic making a turn described in this subdivision shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic using the intersection.

(C) Unless otherwise directed by a pedestrian control signal, pedestrians facing a steady circular red signal alone may not enter the roadway.

(4) No indication or conflicting indications means the following:

(A) Vehicular traffic facing an intersection having a **traffic control** signal that displays no indication or conflicting indications, where no other control is present, shall stop before entering the intersection.

(B) After stopping, vehicular traffic may proceed with caution through the intersection and shall yield the right-of-way to traffic within the intersection or approaching so closely as to constitute an immediate hazard.

(5) This section applies to traffic control signals located at a place other than an intersection. A stop required under this subdivision must be made at the signal, except when the signal is supplemented by a sign or pavement marking indicating where the stop must be made.

SECTION 15. IC 9-21-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) This section does not apply at railroad grade crossings.

(b) Whenever an illuminated flashing red or yellow light is used in a traffic **control** signal or with a traffic sign, vehicular traffic shall obey the signal in the following manner:

(1) Flashing red (stop signal) means the following:

(A) When a red lens is illuminated by rapid intermittent flashes, a person who drives a vehicle shall stop at a clearly marked stop line before entering the crosswalk on the near side of the intersection.

(B) If no line exists, the person shall stop at the point nearest the intersecting roadway where the person has a view of approaching traffic on the intersecting roadway before entering the roadway.

(C) The right to proceed is subject to the rules applicable after making a stop at a stop sign.

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(2) Flashing yellow (caution signal) means that when a yellow lens is illuminated with rapid intermittent flashes, a person who drives a vehicle may proceed through the intersection or past the signal only with caution.

SECTION 16. IC 9-21-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 3.5. Automated Traffic Law Enforcement System

Sec. 1. This chapter does not apply to the following:

- (1) Farm wagons.
- (2) Farm tractors.
- (3) Farm machinery.

Sec. 2. As used in this chapter, "automated traffic law enforcement system" means a device:

- (1) that has one (1) or more motor vehicle sensors working in conjunction with a traffic control signal that exhibits:
 - (A) a steady red light as described in IC 9-21-3-7(b)(3); or
 - (B) an illuminated flashing red light as described in IC 9-21-3-8(b)(1); and
- (2) that is capable of producing a photographically recorded image of a motor vehicle, including an image of the vehicle's rear license plate, as the vehicle proceeds through an intersection while the traffic control signal is exhibiting a steady red light or a flashing red light.

Sec. 3. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under:

- (1) IC 9-18;
- (2) the laws of another state;
- (3) the laws of a foreign country; or
- (4) the International Registration Plan.

Sec. 4. Notwithstanding IC 9-21-3-7 and IC 9-21-8-41, a local authority, with respect to highways under its jurisdiction, may adopt and enforce an ordinance that regulates the placement and use of automated traffic law enforcement systems.

Sec. 5. Before enforcing an ordinance adopted under section 4 of this chapter, the local authority must install advance warning signs along the roadways proceeding to the intersection at which an automated traffic law enforcement system is located.

Sec. 6. (a) An ordinance adopted under section 4 of this chapter must provide that the owner of a motor vehicle commits a violation of the local ordinance when the automated traffic law enforcement system produces a recorded image of the motor vehicle proceeding

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through an intersection contrary to the requirement to stop at a red light under IC 9-21-3-7(b)(3).

(b) The local authority shall mail the owner of a motor vehicle committing a violation of an ordinance adopted under section 4 of this chapter notice of the ordinance violation. The notice must include the following:

- (1) The name and address of the owner of the motor vehicle.
- (2) The registration number of the motor vehicle.
- (3) The violation charged.
- (4) The location of the intersection.
- (5) The date and time of the violation.
- (6) A copy of the recorded image described in subsection (a).
- (7) The amount of the civil penalty imposed for the violation.

(c) An ordinance adopted under section 4 of this chapter may not impose a civil penalty exceeding one hundred dollars (\$100).

(d) An ordinance adopted under section 4 of this chapter may authorize the local authority to mail a warning notice to the owner in lieu of imposing a civil penalty for the violation of the ordinance.

Sec. 7. (a) It is a defense in a proceeding to enforce an ordinance adopted under section 4 of this chapter if the owner:

- (1) proves that, at the time of the alleged violation, the owner was engaged in the business of renting or leasing vehicles under written agreements;
- (2) proves that, at the time of the alleged violation, the vehicle was in the care, custody, or control of a person (other than the owner or an employee of the owner) under a written agreement for the rental or lease of the vehicle for a period of not more than sixty (60) days; and
- (3) provides to the ordinance violations bureau or court that has jurisdiction the name and address of the person who was renting or leasing the vehicle at the time of the alleged violation.

(b) The owner of a vehicle may establish proof under subsection (a)(2) by submitting, within thirty (30) days after the owner receives notice by mail of the ordinance violation, a copy of the rental or lease agreement to the ordinance violations bureau or court that has jurisdiction.

(c) If the owner of a vehicle establishes the proof required under subsection (a)(2), the ordinance violations bureau or the court that has jurisdiction shall mail a notice of the ordinance violation to the person identified as the person having the care, custody, or control of the motor vehicle at the time of the violation. The proof required

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under subsection (a)(2) creates a rebuttable presumption that the person having the care, custody, or control of the vehicle at the time of the violation was the driver of the motor vehicle at the time of the violation. The notice required under this subsection must contain:

(1) the information described in section 6(b) of this chapter; and

(2) a statement that the person receiving the notice was identified by the owner of the motor vehicle as the person having the care, custody, or control of the motor vehicle at the time of the violation.

Sec. 8. (a) This subsection applies to an owner other than an owner described in section 7 of this chapter.

(b) It is a defense to a proceeding to enforce an ordinance adopted under section 4 of this chapter if the owner provides to the ordinance violations bureau or court that has jurisdiction the following:

(1) An affidavit signed under the penalties of perjury that neither the owner nor a member of the owner's immediate family was driving the motor vehicle at the time of the alleged violation.

(2) An affidavit signed under the penalties of perjury stating either of the following:

(A) The name and address of the person driving the motor vehicle at the time of the alleged violation.

(B) That either the motor vehicle or the license plate of the motor vehicle had been stolen before the alleged violation occurred and was not under the control or possession of the owner at the time of the alleged violation. In addition to the affidavit described in this clause, the owner must submit proof that a police report was filed concerning the stolen motor vehicle or stolen license plate.

(c) If the owner of a vehicle submits the evidence required under subsection (b)(2)(A), the ordinance violations bureau or the court that has jurisdiction shall mail a notice of the ordinance violation to the person identified as the person driving the motor vehicle at the time of the violation. The evidence required under subsection (b)(2)(A) creates a rebuttable presumption that the person identified in the affidavit required under subsection (b)(2)(A) was the driver of the motor vehicle at the time of the violation. The notice required under this subsection must contain:

(1) the information described in section 6(b) of this chapter;



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and

(2) a statement that the person receiving the notice was identified by the owner of the motor vehicle as the person driving the motor vehicle at the time of the violation.

Sec. 9. It is a defense to a proceeding to enforce an ordinance adopted under section 4 of this chapter that any of the following apply:

(1) IC 9-21-1-8(b)(2) (a person driving an authorized emergency vehicle may proceed past a red or stop signal or stop sign after slowing down as necessary for safe operation).

(2) IC 9-21-3-7(b)(4) (traffic control signal lights are giving no indication or conflicting indications).

(3) IC 9-21-13-1 (vehicle with lighted headlights is in a funeral procession).

SECTION 17. IC 9-30-3-12, AS AMENDED BY P.L.225-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) If during any twelve (12) month period a person has committed moving traffic violations for which the person has:

(1) been convicted of at least two (2) traffic misdemeanors;

(2) had at least two (2) traffic judgments entered against the person; or

(3) been convicted of at least one (1) traffic misdemeanor and has had at least one (1) traffic judgment entered against the person;

the bureau may require the person to attend and satisfactorily complete a defensive driving school program. The person shall pay all applicable fees required by the bureau.

(b) This subsection applies to an individual who holds a probationary license under IC 9-24-11-3 or is less than eighteen (18) years of age. An individual is required to attend and satisfactorily complete a defensive driving school program if either of the following occurs at least twice or if both of the following have occurred:

(1) The individual has been convicted of a moving traffic ~~offense~~ **violation** (as defined in section 14(a) of this chapter), other than an offense that solely involves motor vehicle equipment.

(2) The individual has been the operator of a motor vehicle involved in an accident for which a report is required to be filed under IC 9-26-2.

The individual shall pay all applicable fees required by the bureau.

(c) The bureau may suspend the driving license of any person who:

(1) fails to attend a defensive driving school program; or

(2) fails to satisfactorily complete a defensive driving school



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1 program;
2 as required by this section.

3 (d) Notwithstanding IC 33-19-5-2, any court may suspend one-half
4 (1/2) of each applicable court cost for which a person is liable due to
5 a traffic violation if the person enrolls in and completes a defensive
6 driving school or a similar school conducted by an agency of the state
7 or local government.

8 SECTION 18. IC 9-30-3-14 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) **This section**
10 **does not apply to a violation of an ordinance adopted under**
11 **IC 9-21-3.5-4.**

12 (b) As used in this section, "moving traffic ~~offense~~ violation"
13 means a violation of a statute, an ordinance, or a rule relating to the
14 operation or use of motor vehicles while the motor vehicle is in motion.

15 ~~(b)~~ (c) If a court convicts a person for a moving traffic ~~offense~~
16 **violation**, and the person is known or believed by the court not to be
17 the owner of the motor vehicle, the court shall, within seven (7) days
18 after entering the conviction, deposit with the United States Postal
19 Service, first class postage prepaid, notice addressed to the owner of
20 the motor vehicle giving the owner the following information:

- 21 (1) The name and address of the person convicted.
- 22 (2) The name and address of the owner of the motor vehicle.
- 23 (3) The offense upon which the conviction was made.
- 24 (4) The date of arrest of the person convicted and the location of
- 25 the place of the offense.
- 26 (5) The license plate number of the motor vehicle.
- 27 (6) The operator's or chauffeur's license number of the person
- 28 convicted.
- 29 (7) The date of the conviction and the name of the court making
- 30 the conviction.

31 SECTION 19. IC 34-6-2-85 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 85. "Moving traffic
33 violation", for purposes of IC 34-28-5, means a violation of:

- 34 (1) a statute defining an infraction; or
- 35 (2) an ordinance, **other than a violation of an ordinance**
36 **adopted under IC 9-21-3.5-4;**

37 that applies when a motor vehicle is in motion.

38 SECTION 20. IC 34-28-5-1, AS AMENDED BY P.L.98-2000,
39 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2002]: Sec. 1. (a) An action to enforce a statute defining an
41 infraction shall be brought in the name of the state of Indiana by the
42 prosecuting attorney for the judicial circuit in which the infraction

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1 allegedly took place. However, if the infraction allegedly took place on
 2 a public highway (as defined in IC 9-25-2-4) that runs on and along a
 3 common boundary shared by two (2) or more judicial circuits, a
 4 prosecuting attorney for any judicial circuit sharing the common
 5 boundary may bring the action.

6 (b) An action to enforce an ordinance shall be brought in the name
 7 of the municipal corporation. The municipal corporation need not
 8 prove that it or the ordinance is valid unless validity is controverted by
 9 affidavit.

10 (c) Actions under this chapter (or IC 34-4-32 before its repeal):

11 (1) shall be conducted in accordance with the Indiana Rules of
 12 Trial Procedure; and

13 (2) must be brought within two (2) years after the alleged conduct
 14 or violation occurred.

15 (d) The plaintiff in an action under this chapter must prove the
 16 commission of an infraction or ordinance violation by a preponderance
 17 of the evidence.

18 (e) The complaint and summons described in IC 9-30-3-6 may be
 19 used for any infraction or ordinance violation.

20 (f) The prosecuting attorney or the attorney for a municipal
 21 corporation may establish a deferral program for deferring actions
 22 brought under this section. Actions may be deferred under this section
 23 if:

24 (1) the defendant in the action agrees to conditions of a deferral
 25 program offered by the prosecuting attorney or the attorney for a
 26 municipal corporation;

27 (2) the defendant in the action agrees to pay to the clerk of the
 28 court an initial user's fee and monthly user's fee set by the
 29 prosecuting attorney or the attorney for the municipal corporation
 30 in accordance with IC 33-19-5-2(e);

31 (3) the terms of the agreement are recorded in an instrument
 32 signed by the defendant and the prosecuting attorney or the
 33 attorney for the municipal corporation;

34 (4) the defendant in the action agrees to pay court costs of
 35 twenty-five dollars (\$25) to the clerk of court if the action
 36 involves a moving traffic ~~offense~~ **violation** (as defined in
 37 IC 9-13-2-110); and

38 (5) the agreement is filed in the court in which the action is
 39 brought.

40 When a defendant complies with the terms of an agreement filed under
 41 this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting
 42 attorney or the attorney for the municipal corporation shall request the

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1 court to dismiss the action. Upon receipt of a request to dismiss an
 2 action under this subsection, the court shall dismiss the action. An
 3 action dismissed under this subsection (or IC 34-4-32-1(f) before its
 4 repeal) may not be refiled.

5 SECTION 21. IC 36-1-6-3 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) Certain
 7 ordinances may be enforced by a municipal corporation without
 8 proceeding in court through:

9 (1) an admission of violation before the violations clerk under
 10 IC 33-6-3; or

11 (2) administrative enforcement under section 9 of this chapter.

12 (b) Except as provided in subsection (a), a proceeding to enforce an
 13 ordinance must be brought in accordance with IC 34-28-5, section 4 of
 14 this chapter, or both.

15 (c) An ordinance defining a moving traffic violation **other than a**
 16 **violation of an ordinance adopted under IC 9-21-3.5-4** may not be
 17 enforced under IC 33-6-3 and must be enforced in accordance with
 18 IC 34-28-5.

19 SECTION 22. IC 9-13-2-117 IS REPEALED [EFFECTIVE JULY
 20 1, 2002].

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